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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,572	01/03/2002	Scott A. McKenney	27398.00 (ERID 0701)	5850

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EXAMINER

ARAUQUE JR, GERARDO

ART UNIT PAPER NUMBER

3629

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/038,572		MCKENNEY ET AL.	
	Examiner		Art Unit	
	Gerardo Araque Jr.		3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2002 January 3 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The informal drawings are not of sufficient quality to permit examination. Accordingly, replacement drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to this Office action. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

Oath/Declaration

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the mailing address of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

Specification

3. The abstract of the disclosure is objected to because it contains more than 150 words. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

Specification

3. The abstract of the disclosure is objected to because it contains more than 150 words. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. **Claims 1 – 15 and 18 – 25** are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. Many features, the details of which described below, critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

The enablement requirement refers to the requirement of 35 U.S.C. 112, first paragraph that the specification describe how to make and how to use the invention. The invention that one skilled in the art must be enabled to make and use is that defined by the claim(s) of the particular application or patent (MPEP 2164 [R-2] The Enablement Requirement).

The standard for determining whether the specification meets the enablement requirement was cast in the Supreme Court decision of *Mineral Separation v. Hyde*, 242 U.S. 261, 270 (1916) which postured the question: is the experimentation needed to practice the invention undue or unreasonable? (2164.01 Test of Enablement)

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6. In regards to **claim 1 part d**, the applicant does not disclose how to properly select the appropriate data for a given emergency situation, and, as a result, would burden the examiner with undue experimentation of selecting the same necessary data on a repeatable basis for the same given emergency situation.

7. In regard to **claim 3 and 18**, the applicant does not fully explain exactly how the logistics module, operations module, and planning module assist the user in the emergency situation. That is, the applicant only discloses that the modules are there and that they assist the user, but does not explain how the modules actually carry out their functions.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. **Claims 1 – 15 and 23 – 25** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. In regards to **claim 1 part g**, the applicant fails to properly point out whether the data collected in **part a**, the data being stored in **part b**, or the inputted data in **part c** is being updated.

11. In regards to **claim 23**, the applicant does not disclose or explain how the "...at least one option is selectively includable and excludable." The claim is indefinite and fails to clearly point out how this is done and nowhere in the specifications is this disclosed. The examiner is not able to examine this claim.

Claim Rejections - 35 USC § 101

12. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

13. **Claims 1 – 15** are rejected under 35 U.S.C. 101 because the invention fails to produce a “concrete” result. Usually, this question arises when a result cannot be assured. In other words, the process must have a result that can be substantially repeatable or the process must substantially produce the same result again. In re Swartz, 232 F.3d 862, 864 (Fed. Cir. 2000) (where asserted result produced by the claimed invention is “irreproducible” claim should be rejected under section 101). The opposite of “concrete” is unrepeatable or unpredictable. Resolving this question is dependent on the level of skill in the art. For example, if the claimed invention is for a process which requires a particular skill, to determine whether that process is substantially repeatable will necessarily require a determination of the level of skill of the ordinary artisan in that field. An appropriate rejection under 35 U.S.C. § 101 should be accompanied by a lack of enablement rejection under 35 U.S.C. § 112, paragraph 1, because the invention cannot operate as intended without undue experimentation. *See infra*.

In regards to **claim 1 part d**, the action of selecting data is subjective and will vary depending on the person doing the actual selection. What one person may deem as crucial information to an emergency situation may necessarily not be the same in someone else’s point of view. As a result, the action of selecting

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the data necessary to assess the given emergency situation is not repeatable and will produce different results.

Claim Rejections - 35 USC § 102

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

15. **Claims 1- 7 and 9 – 25** are rejected under 35 U.S.C. 102(a) as being anticipated by Quick (Patent Application Publication Number US 2001/0056435A).

16. In regards to **claim 1**, as best understood by the examiner, Quick discloses a system, method and apparatus for the collection, management, and dissemination of information needed by emergency response personnel (Page 2 Column 1 Paragraph 31 Lines 1 – 6). The system contains, “reports called “pre-plans” or “pre-fire surveys” often contain site maps or floor plans and other data that emergency response personnel need to know when responding to an accident in a facility (Page 1 Column 2 Paragraph 18, Figures 3 – 6).” Quick also discloses that the user inputs information in order to allow personnel to fully understand the nature of the chemicals that are involved in the incident and selecting the appropriate reports in order to respond to the situation properly (Page 1 Column 23 Paragraph 26; Page 4 Column 1 Paragraph 65). Moreover, Quick discloses, “...information contained in the secure database **12** is also

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particularly valuable when combined with post-incident information. Either during or following an incident, as previously described, emergency response personnel may add information regarding the incident to the secure database **12** (Page 6 Column 1 Paragraph 83)."

17. In regard to **claims 2 and 17**, Quick discloses that the system, method, and apparatus is build around a secure database, in which the information can only be accessed by authorized personnel (Page 2 Column 2 Paragraph 32) and that information can be added to the database during or following an incident by keeping track of the various activities (Page 4 Column 1 Paragraph 68, Page 6 Column 1 Paragraph 83). It is inherent that a computer must be used in order to access this database (Page 5 Column 2 Paragraph 78).

18. In regard to **claims 3 and 18**, as best understood by the examiner, Quick discloses that the secure database contains several categories of information for determining the best solution to approaching and preparing for an emergency (Page 2 Column 2 Paragraphs 42 – 47).

19. In regards to **claim 4**, Quick discloses that the wireless communication devices connected to the system allows for the user to look up the current weather (Page 5 Column 2 Paragraph 79, Figures 7A – 7C).

20. In regards to **claim 5**, Quick discloses that the user is able to select the necessary data from the secure database depending on the nature of the situation (Page 4 Column 1 Paragraph 65).

21. In regards to **claim 6**, as best understood by the examiner, the secure database that Quick discloses is inherently accessed by a computer, which

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contains a CPU. Moreover, the secure database disclosed by Quick allows the user to access floor plans to allow them to locate necessary equipment, such as hydrant and stand-pipe locations if water is necessary, and other locations that may be pertinent to the situation at hand (Page 1 Column 2 Paragraphs 19 – 24).

22. In regards to **claim 7**, as best understood by the examiner, Quick discloses that reports, called “pre-plans” or “pre-fire surveys”, are available for emergency response teams to use. Using these reports, the emergency response team can determine the best action to take for the given situation (Page 1 Column 2 Paragraphs 18 – 25). Moreover, wireless communication is available for the emergency response team to further understand the situation en route to the location (Page 5 Column 2 Paragraph 78, Figures 7A – 7B).

23. In regards to **claim 9**, Quick also discloses that the user inputs information in order to allow personnel to fully understand the nature of the chemicals that are involved in the incident and selecting the appropriate reports in order to respond to the situation properly (Page 1 Column 23 Paragraph 26; Page 4 Column 1 Paragraph 65). Moreover, the secure database disclosed by Quick allows the user to access floor plans to allow them to locate necessary equipment, such as hydrant and stand-pipe locations if water is necessary, and other locations that may be pertinent to the situation at hand (Page 1 Column 2 Paragraphs 19 – 24).

24. In regards to **claim 10**, Quick discloses that the secure database is located at a firehouse with a stationary computer in order to make an initial preparation for the situation. When the emergency response team is ready to be

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dispatched they have wireless communication devices in order to gather additional information on the situation (Page 5 Column 2 Paragraph 78, Figures 7A – 7B).

25. In regards to **claim 11**, Quick discloses that the secure database is broken into different categories in order to access the necessary information efficiently and quickly and that floor plans and other data needed by the emergency response team is available (Page 1 Column 2 Paragraph 18, Page 2 Column 2 Paragraphs 43 – 47).

26. In regard to **claims 12 – 15**, as best understood by the examiner, Quick discloses that the information can be distributed either before or after the incident and the additional information can be used to update any outdated information or write post-incident reports (Page 2 Column 2 Paragraph 31, Page 3 Column 1 Paragraph 53). Moreover, with the use of the wireless communication additional information can be relayed from the incident site to the user in front of the computer connected to the secure database and track the activities being inputted to the secure database (Page 4 Column 1 Paragraph 68, Page 5 Column 2 Paragraph 78 & 79, Figures 7A – 7B).

27. In regards to **claim 16**, Quick discloses a system, method, and apparatus for the collection, management, and dissemination of information needed by emergency response personnel for an emergency situation (Page 2 Column 1 Paragraph 31). When a call is made related to an emergency situation the emergency response personnel gathers as much information as possible in order to properly prepare for the situation and input any necessary data into the secure

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database for the emergency response personnel to review and understand, such as address details and chemical identification details (Page 4 Column 1 Paragraph 65, Page 5 Column 2 Paragraph 78). Moreover, the secure database makes available to the emergency response personnel various reports for handling response to an incident (Page 4 Column 1 Paragraph 65).

Furthermore, with the use of the wireless communication additional information can be relayed from the incident site to the user in front of the computer connected to the secure database and track the activities being inputted to the secure database (Page 4 Column 1 Paragraph 68, Page 5 Column 2 Paragraph 78 & 79, Figures 7A – 7B).

28. In regard to **claims 19 – 20**, Quick discloses that “pre-plans”, “pre-fire surveys”, or risk management plans are offered in order for emergency response personnel to determine the safer and best course of action for the situation at hand (Page 1 Column 2 Paragraphs 18 – 25). Moreover, Quick also discloses that the addition of a software to extract necessary information stored in the secure database can also be enabled (Page 3 Column 1 Paragraph 52).

29. In regard to **claims 21 – 22 and 24 – 25**, Quick discloses that the information can be distributed either before or after the incident and the additional information can be used to update any outdated information or write post-incident reports (Page 2 Column 2 Paragraph 31, Page 3 Column 1 Paragraph 53). This would inherently require necessary information, such as the date and time, to be included in the reports and as well as when the most recent information was last updated. Moreover, the information that is stored in the

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secure database will offer emergency response personnel to determine the safer and best course of action for the situation at hand and what equipment is necessary in order to deal with the incident properly (Page 1 Column 2 Paragraphs 18 – 25, Page 4 Column 1 Paragraph 65, Figure 3). Furthermore, with the use of the wireless communication additional information can be relayed from the incident site to the user in front of the computer connected to the secure database and track the activities being inputted to the secure database (Page 4 Column 1 Paragraph 68, Page 5 Column 2 Paragraph 78 & 79, Figures 7A – 7B).

30. In regards to **claim 23**, the claim cannot be analyzed because the examiner does not understand what the applicant is trying to disclose.

Claim Rejections - 35 USC § 103

31. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

32. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Quick (Patent Application Publication Number US 2001/0056435A) in view of Associated Realty Property Management

(<http://web.archive.org/web/20000817071152/http://www.arpm.com/>).

33. In regards to **claim 8**, as best understood by the examiner, Quick is discussed above, but fails to teach implementing a virtual walkthrough of the location. However, it is well known in the art to offer virtual walkthroughs in order

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to allow someone to fully understand the actual layout of a location. Moreover, realty offices, such as Associated Realty Property Management (ARPM), offer virtual walkthroughs to allow a tenant to fully appreciate the layout of an apartment that they fail to see on simple floor plans

(<http://web.archive.org/web/20001208075700/www.arpm.com/ipix.asp>).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention in view of the teachings of ARPM to include a virtual walkthrough of a building in order to allow an emergency response team to fully understand the current layout of a floor and better prepare for the situation.

Conclusion

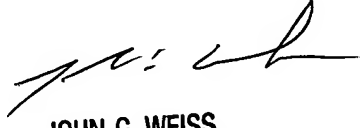
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerardo Araque Jr. whose telephone number is (571)272-3747. The examiner can normally be reached on Monday - Friday 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GA
3-30-2006



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